

NATIONAL RECOVERY ADMINISTRATION

**AMENDMENT TO
CODE OF FAIR COMPETITION
FOR THE
DRESS MANUFACTURING
INDUSTRY**

AS APPROVED ON APRIL 10, 1934



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Approved Code No. 64—Amendment No. 1

AMENDMENT TO CODE OF FAIR COMPETITION

FOR THE

DRESS MANUFACTURING INDUSTRY

As Approved on April 10, 1934

ORDER

AMENDMENT TO THE CODE OF FAIR COMPETITION FOR THE DRESS MANUFACTURING INDUSTRY

An application having been duly made pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for approval of amendments to a Code of Fair Competition for the Dress Manufacturing Industry, and hearings having been duly held thereon and the annexed report on said amendments, containing findings with respect thereto, having been made and directed to the President:

NOW, THEREFORE, on behalf of the President of the United States, I, Hugh S. Johnson, Administrator for Industrial Recovery, pursuant to authority vested in me by Executive Orders of the President, including Executive Order No. 6543-A, dated December 30, 1933, and otherwise, do hereby incorporate, by reference, said annexed report and do find that amendments and the Code as constituted after being amended comply in all respects with the pertinent provisions and will promote the policy and purposes of said Title of said Act, and do hereby order that except as hereinafter provided said amendments be and they are hereby approved, and that the previous approval of said Code is hereby modified to include an approval of said Code in its entirety as amended; it is

FURTHER ORDERED that except as herein expressly specified, the approval of said amendments shall constitute a supplement to and not a repeal of existing provisions in the Code;

IT IS FURTHER ORDERED that said amendments shall become effective as part of the Code ten (10) days after the date hereof.

HUGH S. JOHNSON,
Administrator for Industrial Recovery.

Approval recommended:

SOL. A. ROSENBLATT,
Division Administrator.

APRIL 10, 1934.

REPORT TO THE PRESIDENT

The PRESIDENT,
The White House.

SIR: The Public Hearing on an amendment to the Code of Fair Competition for the Dress Industry as proposed by the Code Authority for this Industry was conducted on Monday, March 26, 1934, in Room 2062, Department of Commerce Building, Washington, D.C.

Each person who requested an appearance was fairly heard in public in accordance with the usual requirements. Present were authorized representatives of the Code Authority for this Industry, representatives of the National Retail Dry Goods Association, and representative members of the Industry.

The proposals of modifications to amend Article IX of the Dress Code, approved October 31, 1933, were the subject of conferences between the Code Authority and representatives of the Retailers Protective Association of the N.R.D.G.A. and the Chairman of the Merchandise Managers' Group of this Association, at which agreement was reached respecting the substance of the several modifications proposed.

The Deputy Administrator in his final report to me on said amendment to said Code having found has herein set forth and on the basis of all the proceedings in this matter:

I find that:

(a) The amendment to said Code and the Code as amended are well designed to promote the policies and purposes of Title I of the National Industrial Recovery Act including the removal of obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof, and will provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among trade groups, by inducing and maintaining united action of labor and management under adequate governmental sanction and supervision, by eliminating unfair competitive practices, by promoting the fullest possible utilization of the present productive capacity of industries, by avoiding undue restriction of production (except as may be temporarily required), by increasing the consumption of industrial and agricultural products through increasing purchasing power, by reducing and relieving unemployment, by improving standards of labor, and by otherwise rehabilitating industry.

(b) The Code as amended complies in all respects with the pertinent provisions of said Title of said Act, including without limitation Subsection (a) of Section 3, Subsection (a) of Section 7, and Subsection (b) of Section 10 thereof.

(c) The Code empowers the Code Authority to present the afore-said amendment on behalf of the industry as a whole.

(d) The amendment and the Code as amended are not designed to and will not permit monopolies or monopolistic practices.

(e) The amendment and the Code as amended are not designed to and will not eliminate or oppress small enterprises and will not operate to discriminate against them.

(f) Those engaged in other steps of the economic process have not been deprived of the right to be heard prior to approval of said amendment.

For these reasons, these trade practice provisions have been approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

APRIL 10, 1934.

AMENDMENT TO CODE OF FAIR COMPETITION FOR THE DRESS MANUFACTURING INDUSTRY

I. The following is substituted for the first paragraph of Article IX of the Code:

"For all purposes of this Code the provisions hereinafter set forth shall constitute unfair trade practices. Any member of the Industry who shall directly, or indirectly through any officer, employee, agent, or representative, knowingly use, employ, or permit to be employed or be engaged in any of such unfair trade practices, shall be guilty of violation of the Code and be subject to the penalties provided in the Act."

II. The following is substituted for Section 1 of Article IX and is designated as Section 1:

"1. No member of the Industry shall accept returned merchandise for credit under any circumstances except in accordance with the following:

"(a) Members of the industry may accept merchandise for credit which has been shipped by a customer within five working days from the date of receipt by the customer in his store, only for the following reasons: errors in shipment, delay in delivery, defective material or workmanship or any breach of contract. Members of the industry shall not accept merchandise for credit unless accompanied by a letter or regular return form mailed by the customer to the manufacturer and received by the manufacturer prior to the arrival of the merchandise stating the contents of the package, reason for the return and the date on which the merchandise was received. Any dispute shall be subject to arbitration in accordance with procedure agreed upon by the Dress Code Authority and the National Retail Code Authority.

"(b) Members of the Industry may accept merchandise for credit which has been shipped by the customer after five working days from the date of receipt by the customer in his store, only for the following reasons: defective material or workmanship or breach of contract which cannot be detected by a reasonable inspection within the stated five working days. Members of the Industry shall not accept merchandise for credit shipped after the stated five working days unless accompanied by a letter or regular return form in duplicate, mailed by the customer, one copy to the manufacturer and one copy to the Dress Code Authority at 1440 Broadway, New York, New York, or such other place as shall be designated by the Code Authority, and received by the manufacturer prior to the arrival of the merchandise, stating the contents of the package, the reason for the return and the date the merchandise was received.

"(c) Merchandise returned after the stated five days period in areas designated by the Code Authority shall be held, intact or unopened by the manufacturer, subject to examination by an impartial representative of the Dress Code Authority who shall direct the

acceptance by the manufacturer or the return of the merchandise to the customer. Any appeal from the decision of the impartial representative shall be subject to arbitration in accordance with procedure agreed upon by the Code Authority of the Dress Industry and the National Retail Code Authority."

III. The following is substituted for Section 2 of Article IX of the Code and is designated as Section 2:

"2. The articles of the Fair Trade Practices now or hereafter contained in this Code shall constitute uniform conditions of sale of the Industry, and it shall be an unfair trade practice for any one engaged in the Industry to sell in violation of any of such trade practice regulations."

IV. The following is substituted for Section 4 of the Code and designated as Section 4:

"4. It shall be unfair trade practice to sell goods on open order subject to consignment or by any other method which has the effect of selling on consignment or memorandum or guaranteeing retail turnover."

V. Section 5 of Article IX continues to be designated as Section 5, but it is modified to read as follows:

"5. It shall be unfair trade practice to make, accept or demand allowances, or refunds, rebates, donations, gifts, credits or unearned discounts, (whether in the form of money or otherwise) and/or special privileges or services not openly extended to all on like terms and conditions."

VI. The following provision is inserted as Section 8 of Article IX of the Code:

"8. No member of the trade shall falsely advertise, (whether by printing, radio, display, or by any other form) or falsely brand, mark or pack any goods, in any manner which is misleading. Nor shall any member of the Industry in any way misrepresent any goods (including, but without limitation, their use, trademark, quality, quantity, origin size, finish, material or serviceability) or credit terms, values, policies, services or the nature or form of the business conducted."

VII. The following provision is inserted as Section 9 of Article IX of the Code:

"9. It shall be unfair trade practice to approach or entice the employees of designing and selling departments of competitors with the intent of hampering, injuring, and/or embarrassing such competitors in the conduct of their business; to secure confidential information concerning the business of a competitor by a false or misleading statement or representation, by a false impersonation of one in authority, bribery, or by any other unfair method."

VIII. The following provision is inserted as Section 10 of Article IX of the Code:

"10. It shall be unfair trade practice to make loans or give gratuities, or special commissions or rewards to employees of jobbers, retailers, resident or commission buyers."

IX. The following provision is inserted as Section 11 of Article IX of the Code:

"11. It shall be unfair trade practice for those members of the Dress Industry, normally selling to the trade for resale, to sell merchandise to anyone except to recognized wholesale or retail dis-



tributors. This shall not prevent, however, bona fide sales by members to their own employees of merchandise which is for the personal use of such employees, or to retail buyers at not less than the regular wholesale prices, provided the buyers are employed in the department in which the merchandise of the member of the industry is usually sold."

X. The following provision is inserted as Section 12 of Article IX of the Code:

"12. All members of the Industry shall sell merchandise on the shipping terms of f.o.b. city of manufacture which includes free deliver to any shipping or forwarding point or store within the city in which the manufacturer is located. In cases of disputed claims on returned merchandise, transportation charges shall be paid by whichever disputant loses the decision."

XI. The following provision is inserted as Section 13 of Article IX of the Code:

"13. No member of the Industry shall sell merchandise except under contract which shall provide:

(a) that no purchase order for merchandise shall be subject to cancellation BEFORE the specified and agreed upon shipping date written on said order;

(b) that no purchase order shall be subject to cancellation AFTER the agreed upon shipping date unless cancellation is in writing, and it permits the manufacturer three additional working days from the date of receipt of such cancellation, to complete and ship any and all merchandise in work at that time;

(c) that if no notice of cancellation is received by the manufacturer from the customer, all merchandise remaining on order shall be cancelled by the manufacturer two (2) weeks after the expiration date of order.

XII. The following provision is inserted as Section 14 of Article IX of the Code:

"14. No member of the Industry, shall accept and execute any order for merchandise which is placed by resident buyers unless such order shall be a bona fide order for the sale and purchase of said merchandise. No member of the Industry shall accept orders from a resident buyer unless said resident buyer submits written authorization that he is the agent of the customer and able to bind his principal. Printed announcements in a trade paper shall constitute public notice to this Industry of the change in the resident buying office of a retailer."

XIII. The following provision is inserted as Section 15 of Article IX of the Code:

"15. It shall be unfair trade practice for any member of the Industry to give advertising allowance to any customer or customer's agent."

XIV. The following provision is inserted as Section 16 of Article IX of the Code:

"16. It shall be unfair trade practice for members to accept charges for telegrams or long distance telephone messages from customers with reference to the purchase or sale of goods."